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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/729,244      | 12/05/2003  | Nolan T. Brooks      | PBROOT              | 1173             |

7590 11/01/2005  
Thompson E. Fehr  
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Ogden, UT 84403

EXAMINER

GABLER, PHILIP FRANCIS

ART UNIT PAPER NUMBER

3637

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/729,244             | BROOKS, NOLAN T.    |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Philip Gabler          | 3637                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-13 is/are rejected.
- 7) ☒ Claim(s) 14-42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/05/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention: group 1 – Figures 1-3; and group 2 – Figures 7-9.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are deemed to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Mr. Thompson Fehr on 25 October 2005 a provisional election was made without traverse to prosecute the invention of group 2, claims 10-42. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-9 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### ***Information Disclosure Statement***

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

#### ***Claim Objections***

4. Claims 10 and 42 are objected to because of the following informalities: on line 34 of both claims the word "first," referring to a two-piece leg member, should be changed to the word "second" to maintain consistency (i.e. first wheel with first two-piece leg, second wheel with second two-piece leg). Appropriate correction is required.

5. Claim 11 is objected to because of the following informalities: The ground clearance for the free end of the first two-piece leg is not qualified with "when the table has been folded" as the case is for the ground clearance for the free end of the second two piece leg. Because the ground clearance for the free ends of the legs varies with the state of the table (folded or unfolded), the table's state should be made clear in the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

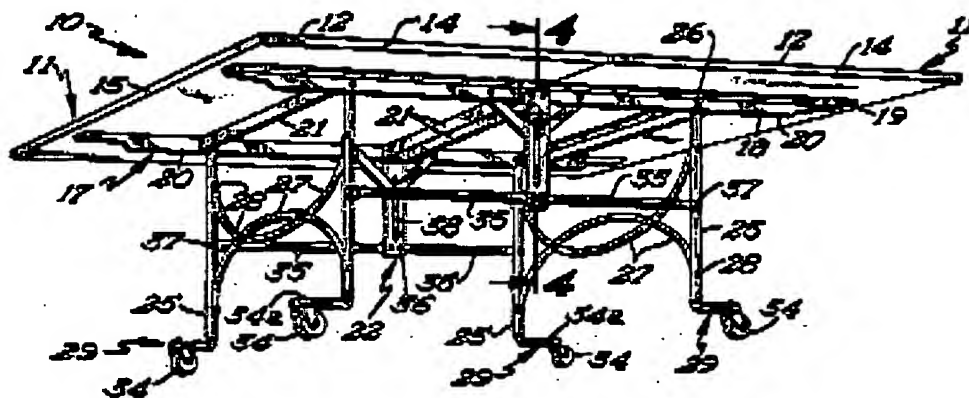
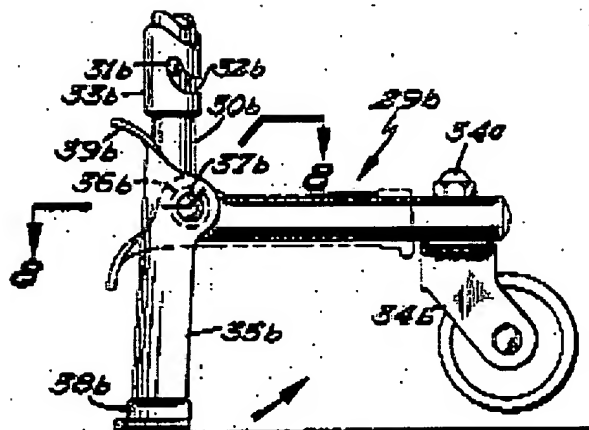
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (US Patent Number 3646895) in view of Nielsen (US Patent Number 3799073). Campbell discloses a folding table as described in the Jepson portion of the claim [basically first and second one-piece legs (21), first and second two-piece legs (17), and a tabletop (11)]; but does not disclose the improvement, i.e. first and second wheels connected to the first and second two-piece legs respectively. Nielsen (Figures 1 and 7) discloses a folding table including a first and second wheel (34) having a radius and a bottom and being rotatably connected to a segment of the first and second leg (25) at a point near the free end (35b) with the leg being bent (in the region adjacent to 30b) near the point of attachment of said wheels to the leg at an angle away from the

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tabletop; the dimensions of the wheels and legs selected such that the free ends (35b) of the legs hold the wheels above a surface supporting the table when the legs have been unfolded to support the tabletop while maintaining the free ends of the legs higher than the bottom of the said wheels and providing ground clearance for the free ends of the legs when the table has been folded. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Campbell's table to include wheels that are disengaged from the ground when the table is unfolded, but engaged with the ground when the table is folded as taught by Nielsen because this arrangement would allow Campbell's table to be moved easily when folded, but maintain its stability when unfolded. Furthermore, it would have been obvious to include bends in the legs for reasons of stability and wheel placement. Regarding claim 11, while it is not shown in Nielsen's figures, it is obvious that the ground clearance for the free end of the leg when it has been folded will vary based on the bracket used to attach the wheel, the angle of the bend, etc. Accordingly, the amount of ground clearance the leg is afforded is considered to be a design choice.

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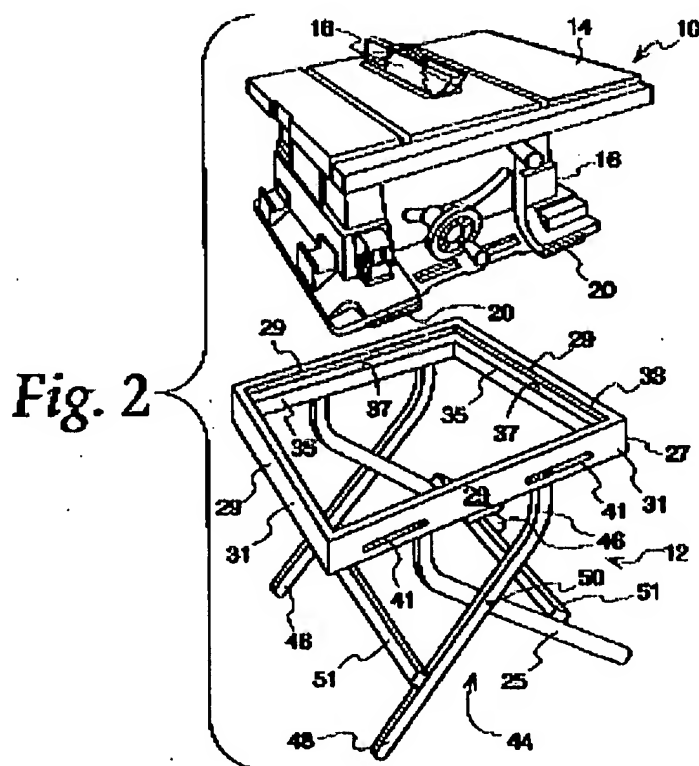
**Fig 1****Fig 7**

Nielsen '073 Figures 1 and 7

8. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell and Nielsen and further in view of Talesky (US Patent Number 6182935). Campbell and Nielsen disclose a table as recited in claim 11 as described above, but do not disclose a "power assist actuator" connected to the tabletop and first one-piece leg. Talesky (Figures 2 and 3) discloses a folding table with a "power assist

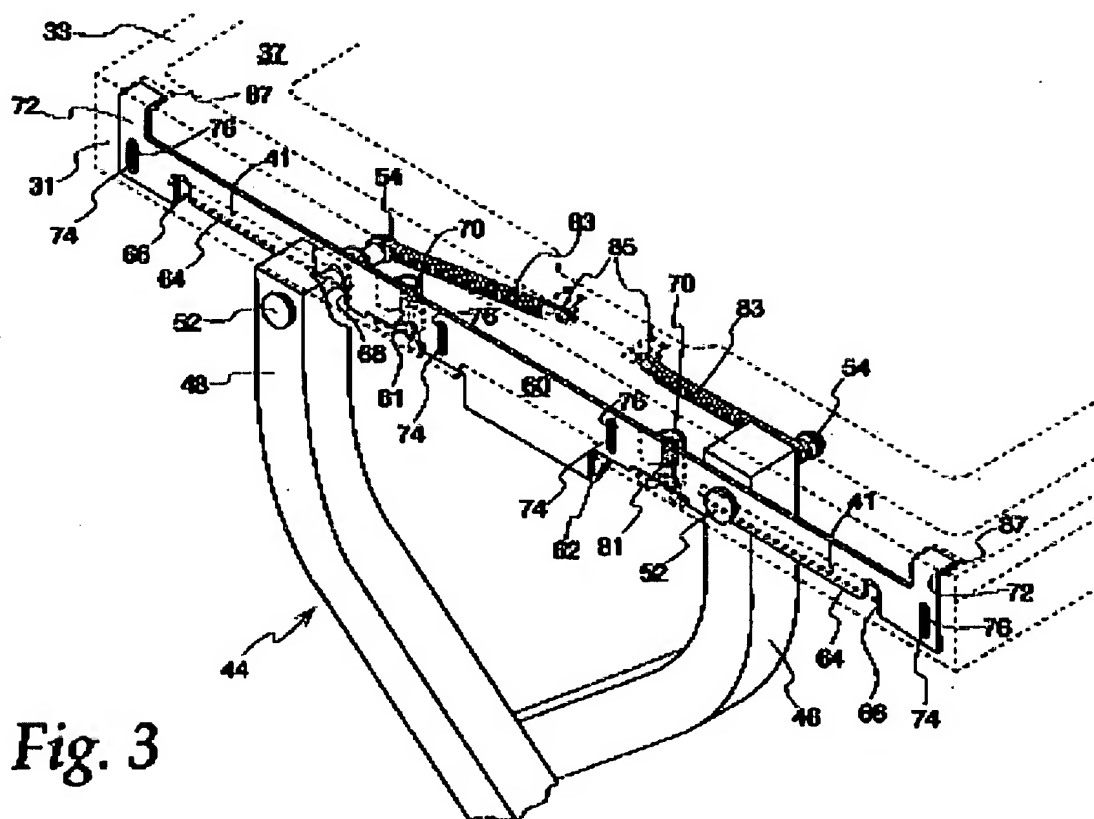
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actuator" (83) pivotally connected to a tabletop (broadly viewed as the structure defined as 27 along with 37) and to the first one-piece leg (48). Regarding claim 13, Talesky further discloses a second power assist actuator (83) pivotally connected to the tabletop (27 along with 37) and to the second one-piece leg (48). Talesky teaches that the actuators are designed to "bias the legs in the open position," in column 7 line 8. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Campbell's table previously modified by Nielsen to include first and second "power assist actuators" pivotally connected to the tabletop and to the first and second one-piece legs respectively because this arrangement would provide Campbell's table with an opening assist, making unfolding the table easier.



Talesky '935 Figure 2





Talesky '935 Figure 3

### ***Allowable Subject Matter***

9. Claims 14 - 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims:
10. Claim 42 would be allowable if rewritten or amended to overcome the objection under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Nakatani reference (US Patent Number 4362307) is cited for disclosing a collapsible cart with wheels that can be disengaged from the ground. The Wolff reference (US Patent Number 5067535) is cited for disclosing a folding work table with a pair of wheels used for transport in the folded position and power actuators to unfold the table. The Karasawa et al. reference (US Patent Number 5131333) and the Ransil et al. reference (US Patent Number 6038986) are cited for disclosing tables which use gas pressurized cylinders to control motion of the tabletop. The Callaway reference (US Patent Number 1487144) and the Dahm reference (US Patent Number D149619) are cited for disclosing tables with leg folding and bracing methods similar to the invention of the current application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFG *AB*  
10/28/2005

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